

JUSTIN M. BAXTER

Oregon State Bar ID Number 992178

justin@baxterlaw.com

KIRSTEN N. BAXTER

Oregon State Bar ID Number 103168

kirsten@baxterlaw.com

Baxter & Baxter, LLP

8835 SW Canyon Lane, Suite 130

Portland, Oregon 97225

Phone: (503) 297-9031

Facsimile: (503) 291-9172

LYNDON L. RUHNKE

Oregon State Bar ID Number 993540

Lyndon@LyndonRuhnke.com

Lyndon Ruhnke, P.C.

4085 SW 109th Ave.

Beaverton, OR 97005

(503) 520-5800 (Telephone)

(503) 665-2956 (Facsimile)

Attorneys for Plaintiff Paull

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

STEVEN PAULL,

Civil No. _____

Plaintiffs,

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

v.

SALLIE MAE, INC., a Delaware corporation,

Telephone Consumer Protection Act

Defendant.

Demand for Jury Trial

Plaintiff Steven Paull, by and through his attorneys, bring this action against Sallie Mae, Inc. Plaintiffs hereby allege, on information and belief, except for information based on personal knowledge, which allegations are likely to have evidentiary support after further

investigation and discovery, as follows:

NATURE OF THE ACTION

1. Aimed at protecting consumer privacy, the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. prohibits use of an “automatic telephone dialing system,” and prohibits use of any artificial or prerecorded voice in calls to cell phones, unless the caller has the “prior express consent” of the called party to make such calls.

2. This civil action seeks statutory damages and injunctive relief from Defendant Sallie Mae, Inc. (referred to as “Sallie Mae” or “Defendant”) arising from its improper use of automated dialing equipment and prerecorded messages.

3. Sallie Mae called Plaintiff repeatedly on their cellular telephones using an automatic telephone dialing system and/or prerecorded voice in apparent attempts to collect an alleged debt from Mr. Paull.

JURISDICTION AND VENUE

4. This court has federal question subject matter jurisdiction over this action. 28 U.S.C. § 1331.

5. Venue is proper in the District of Oregon, Portland Division, because a substantial part of the events giving rise to the claims occurred in the district. Plaintiff received most or all of the illegal calls while in this district.

THE PARTIES

6. Plaintiff Steven Paull is an individual who resides in this district.

7. Defendant Sallie Mae, Inc. is incorporated under the laws of Delaware, and has its headquarters at 300 Continental Drive, Newark, DE 19713. Its registered agent in Oregon is Corporation Service Company, 285 Liberty St. NE, Salem, 97301.

FACTS

8. Defendant made multiple telephone calls to plaintiff's cell phone. Plaintiff did not give Defendant his consent to call his cell phones.

9. On information and belief, plaintiff alleges that Defendant is using an automatic telephone dialing system and/or prerecorded voice system to call plaintiffs.

FIRST CLAIM FOR RELIEF

Telephone Consumer Protection Act

47 U.S.C. § 227(b)

10. Plaintiff incorporates by reference each of the preceding allegations as though fully set forth herein.

11. The TCPA was designed to protect persons from automated call technology that blindly and systematically dials cell phones. *Mims v. Arrow Financial Services, LLC*, 132 S.Ct. 740, 745 (2012).

12. Each of Sallie Mae's calls to plaintiff as described above constituted a separate violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227(b)(1)(A)(iii).

13. Pursuant to 47 U.S.C. § 227(b)(3), plaintiff seeks an injunction against future calls, plus a minimum of \$500 per call, and a maximum of \$1,500 per call, if the violations are proven to have been willful or knowing.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment:

- A. Awarding statutory damages of between \$500 and \$1,500 per call in favor of plaintiff and against Sallie Mae;
- B. Enjoining future calls to plaintiffs; and

C. Awarding such other and further relief as may be just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

DATED this 18th day of November, 2013.

Respectfully submitted,

/s/ Justin M. Baxter

Justin M. Baxter, OSB # 992178

(503) 297-9031 (Telephone)

(503) 291-9172 (Facsimile)

Attorney for Plaintiff